

**ORIGINAL**

Decision No. 53724

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the  
 County of Butte for permission to con-  
 struct a crossing over the Stirling City  
 Branch of the Southern Pacific Railroad  
 near the village of Paradise in Butte  
 County, California.

Application No. 37981

Marshall Jones and Clay Castleberry for applicant.  
Raymond A. Leonard for N. C. McCarthy, interested party.  
Randolph Karr and Frederick E. Fuhrman for Southern  
 Pacific Company, protestant.  
Martin J. Lewis for the Commission staff.

O P I N I O N

This application filed April 30, 1956, contains the statement that the county is sponsoring the application on behalf of Charles W. Chase and N. C. McCarthy, who wish to develop subdivision properties south of the Southern Pacific Company tracks of the Stirling City branch. It is further alleged that the value of the building sites of the owners would be greatly enhanced by direct access to the Skyway rather than to Neal Road which crosses the tracks a few feet to the west. A connection of Hickory Way to Neal Road would require the destruction of several valuable almond trees, according to the allegations.

Public hearing was held in Oroville before Examiner Rowe on August 8, 1956, at which time evidence both oral and documentary was adduced and the matter submitted.

The County of Butte has applied under General Order 88 for permission to relocate the Neal Road crossing (CH 197.2) to a point approximately 90 feet west of its present location. This will increase the distance along a suggested connecting road southerly of

the railroad right of way only about fifty feet and will greatly improve the angle of approach of said connecting road and also tend to improve the crossing of Neal Road over said tracks.

One of the owners of land south of the tracks, N. C. McCarthy who was mentioned as one of the subdividers for whom the County sponsored the application, appeared and testified. His only objection to the suggested connecting road south of the tracks instead of the proposed Hickory crossing was that it would involve destroying some of his valuable almond trees and the acquiring from him of some of his land. He refused to recommend the proposed Hickory Way crossing as he felt that instead his present private crossing a few feet east of the present Neal Road crossing should be used and converted into a public crossing. The other subdivider mentioned in the application did not appear.

The County's expert witness testified that he had no objection to the suggested connection of Neal Road and Hickory Way south of the tracks, which would eliminate the need for Hickory crossing as proposed. He stated that the public need for the proposed Hickory Way crossing consisted in the benefit to the value of lands in the anticipated subdivisions south of the tracks. In his opinion, the relocation of the Neal Road crossing with the expected lowering of land on either side of Neal Road south of the tracks would materially lessen the hazards there.

In view of the feasibility of connecting Hickory Way with Neal Road south of the tracks the Commission finds that there is no substantial public need for the proposed Hickory Way crossing. The Commission further finds that to authorize the construction of Hickory Way crossing as proposed would unduly increase the hazards to motor vehicles on the road and to trains operating over the Southern Pacific tracks.

O R D E R

Application therefor having been filed, public hearing having been held, and the Commission basing its decision upon the evidence of record and the findings contained in the above opinion,

IT IS ORDERED that Application No. 37981 is denied.

The effective date of this decision shall be twenty days after the date hereof.

Dated at San Francisco, California, this 4<sup>th</sup> day of September, 1956.

*John E. Dwyer* President  
*Justin F. Casares*  
*Roy L. Hutcheon*  
*William J. ...*  
*R. Hardy* Commissioners